IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.MC.No. 2933 of 2007()

CC.383/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, PALAKKAD

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PETITIONER: ACCUSED

VINODKUMAR K.P.,
KRISHNA TYRES, P.B.ROAD, DAVANGARIE,
KARNATAKA STATE.

BY ADV. SRI.V.M.KRISHNAKUMAR

RESPONDENTS: COMPLAINANT & STATE

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1. EAGLE RUBBER WORKS,
KANJIKODE, PALAKKAD, REPRESENTED BY
PROPRIETOR, ELIAMMA THOMAS.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SMT.P.R.REENA
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2933 of 2007

Dated this the 20th day of September, 2007

O R D E R

The petitioner is the sole accused in C.C.No.383 of 2005 pending before the Judicial Magistrate of the First Class-I, Palakkad. He faces allegations for offences punishable under Sections 417, 418 & 420 I.P.C. All offences alleged against him are bailable, it is submitted. Cognizance has been taken by the learned Magistrate. The petitioner had not appeared before the learned Magistrate. The learned Magistrate, reckoning the petitioner as an absconding accused, has issued coercive processes against the petitioner. The petitioner finds a warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful. He is willing to surrender before the learned Magistrate and seek regular bail. He further submits that he had settled all his disputes with the complainant and the complainant is willing to appear before the learned Magistrate and report composition. But as the warrant of arrest is pending against the petitioner, the petitioner apprehends that he may be arrested before he reaches the court to surrender before the learned Magistrate. He

further apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. A counsel has appeared for the 1st respondent/complainant . The learned counsel for the 1st respondent also asserts that the matter is settled.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of this case, I find merit in the submission that directions can be issued and it is directed

that the warrant of arrest issued against the petitioner shall not be executed till 08.10.07. The petitioner shall appear before the learned Magistrate and seek composition/bail before that date. The applications for composition shall be considered by the learned Magistrate on the date of surrender itself, unless compelling reasons are there.

(R.BASANT, JUDGE)

rtr/-